IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO.1939 OF 2000

Shri.Everton Pereira, Sole
Proprietor, Pareira Enterprises .. Plaintiff
V/s
Smt.Zarina Multani, Sole Proprietor
Shahi Mattresses .. Defendant

Mr.Ralston Fernandes for the Plaintiff.

CORAM: S.C.DHARMADHIKARI, J.

DATE : 14.06.2005.

P.C.:

1. This Summary Suit was filed on 8th March, 2000. After filing of the same, writ of summons was duly served on the Defendant. One A.S.Ramesan Advocate had entered appearance on behalf of the Defendant, but his vakalatnama was not accepted by the Registry. The reason being that it was filed beyond the stipulated period. The Chamber Summons being Chamber Summons No.512 of 2001 was therefore taken out. The request was to condone the delay in filing the vakalatnama. That Chamber Summons was placed before a learned Single Judge of this Court, who, after hearing both sides, was pleased to dismiss the same by his order dated 26th November, 2001. As a result of that order, which is unchallenged, there is no appearance on record for the Defendant although he has been duly served.

2. Even when this matter is placed for exparte hearing, none appeared for the Defendant. The provisions of law clearly postulate passing of judgment in favour of the plaintiff in such an eventuality. Even otherwise, I am

satisfied that the claim in the present summary suit is based on written contract as evidenced by the Delivery Challan and Invoices which meets the requirements of Order 37 of the Code of Civil Procedure and more particulary those set out in Order 37 Rule 1(2)(b)(i). The learned Advocate appearing for the Plaintiffs tenders the compilation of documents. He submits that as far as the Delivery Challans are concerned they are in orignal, but as far as Invoices are concerned he has tendered the copies thereof and undertakes to give original Invoices with the list. He seeks one week's time to comply with this undertaking. Undertaking is accepted. Time of one week as prayed for is granted. In the light of the above, the following order:-

ORDER

"There shall be a decree as prayed for. However the further interest would be at the rate of 12% p.a from the date of filing of the suit till payment and/or realisation. Refund of Court fees and computation of Advocate's costs as per rules. Issuance of certified copy of the decree is expedited."

(S.C.DHARMADHIKARI J.)